IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 480 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MOHANBHAI JADAVBHAI AND ANOTHER
Versus
STATE OF GUJARAT

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Appearance :
MR AD SHAH for the Appellants
MR HL JANI, ADDITIONAL PUBLIC PROSECUTOR for the Opponent

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 28/11/2006

ORAL JUDGMENT

1. Present Appeal is filed by the appellants – original accused being aggrieved by judgment and order passed in Sessions Case No.130 of 1987 by the learned Additional Sessions Judge, Bhavnagar dated 30.04.1994.

The learned Additional Sessions Judge, Bhavnagar was pleased to record conviction against appellant No.1 for an offence under Section 307 of the Indian Penal Code and was pleased to record conviction against appellant No.2 for offence under Section 323 of the Indian Penal Code.

The learned Additional Sessions Judge, Bhavnagar was pleased to award 5 years R.I., fine of Rs.2,000/- and in default, further 6 months imprisonment to appellant No.1, whereas was pleased to award 1 month's S.I., fine of Rs.250/- and in default 1 month's S.I. to appellant No.2.

2. Mr.A.D.Shah, learned advocate for the appellants – accused did not challenge the conviction on merits, qua accused No.1.

3. The fact that the parties have entered into a compromise, with a view that their relations continued to be cordial, it is deemed fit that the conviction recorded against appellant No.2 for an offence under Section 323 of the Indian Penal Code be quashed and set aside. Order accordingly.

So far as accused No.1 is concerned, he is convicted under Section 307 if the Indian Penal Code which is non-compoundable. But then as the parties have compromised

and they do not have any surviving grievance amongst them, it is deemed fit that while sustaining the conviction of accused No.1 for offence under Section 307 of the Indian Penal Code, the sentence awarded to him be modified. The sentence awarded of 5 years R.I. is reduced to the sentence undergone.

The fine paid by accused No.2 be refunded, but so far as accused No.1 is concerned, fine paid by him shall not be refunded.

4. The Appeal is disposed of accordingly.

(RAVI R.TRIPATHI, J.)

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